

## **REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office Action dated March 2, 2010. After entry of this amendment, claims 1-6 and 8-13 will continue to be pending in the application. New claim 15 has been added. Claims 7 and 14 have previously been canceled.

Reconsideration and allowance is respectfully requested in view of the remarks made below.

### **1. The Rejection under 35 U.S.C § 103**

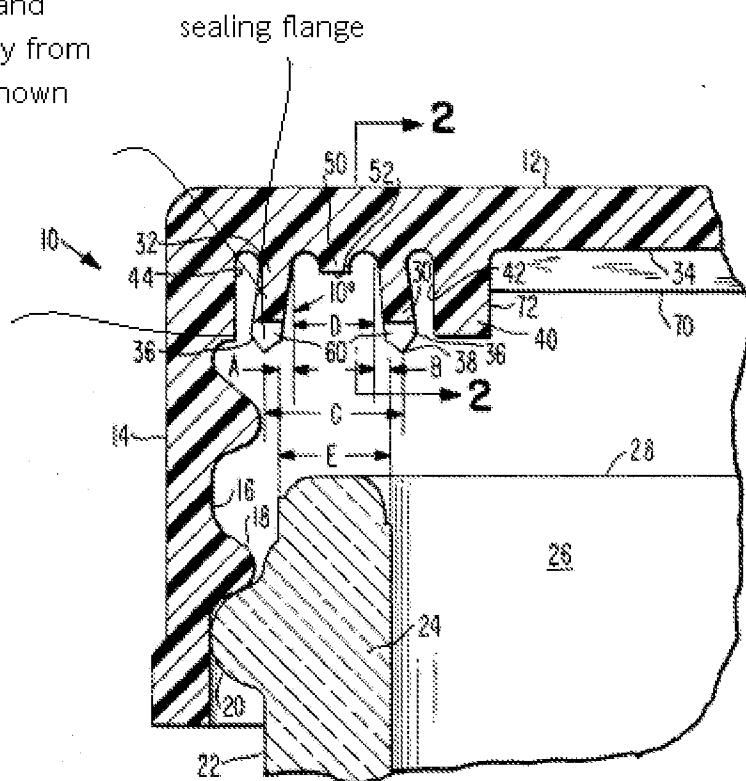
Claims 1-6 and 8-13 stand rejected under 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 4,560,077 to Dutt (hereinafter “Dutt”) in view of U.S. Patent Publication No. 2002/0158037 to Kano et al. (hereinafter “Kano”).

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” See MPEP 2143.03.

Dutt discloses a plastic closure cap having a top 12 and a side wall 14. Dutt further discloses a sealing flange 32 depending from the top 12 and inclined radially outwardly and downwardly from the neck finish 28. See *Dutt*, col. 4, lines 65-66 and FIG. 3. This is shown below:

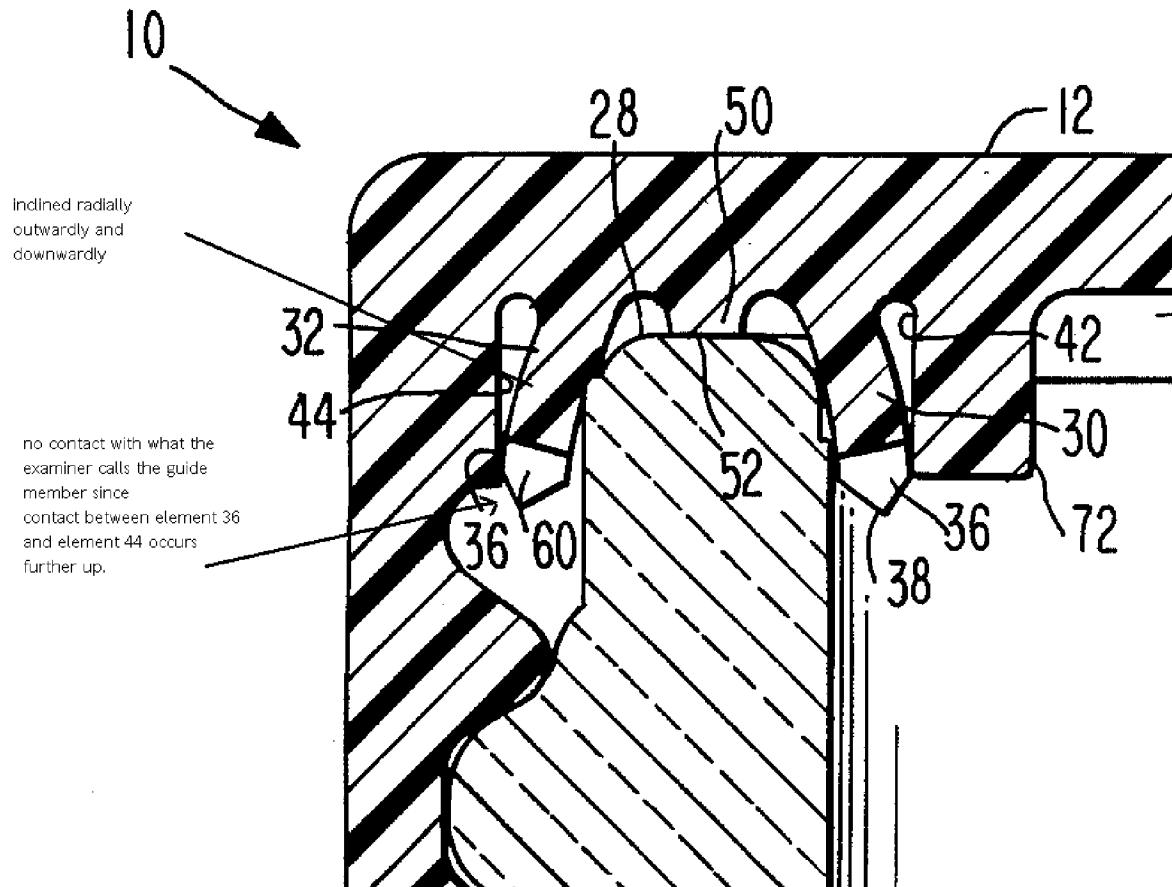
inclined radially and downwardly away from the finish, fully shown in the Fig. located below.

Vertical abutment surface that is not projecting and not projecting towards the sealing strip (flange)



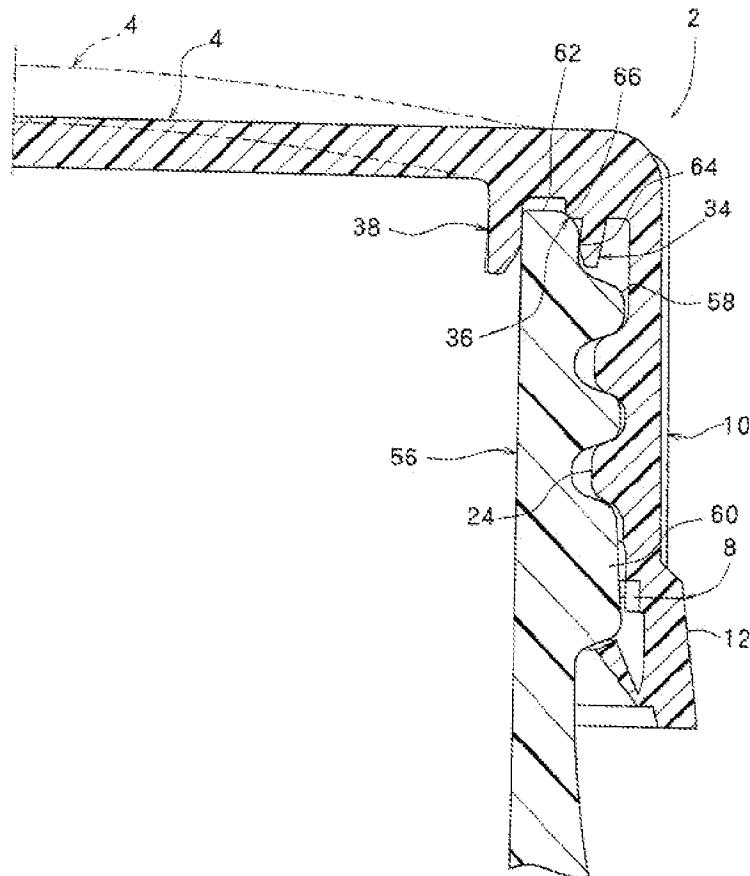
Dutt also discloses an outer seal flange abutment surface 44 which is formed as a thickened wall portion of the closure cap wall and which is vertical and does not appear have a projecting guide member or to be projecting towards the sealing strip. See *Dutt*, col. 6, lines 26-27 and 37. The Examiner identifies the lowest part of abutment surface 44 as the guide member, however this portion does not appear to project from the abutment surface.

When the cap is applied to the container neck, the container neck finish causes the sealing flange to deflect. See *Dutt*, col. 6, lines 42-45. Due to contact with the abutment surface 44, the free end of the sealing flange is directed downwardly. See *Dutt*, col. 6, lines 46-47. Figure 3, partially shown below, shows the closure cap completely secured to the container.



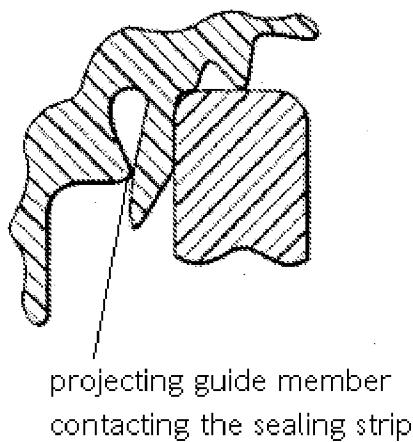
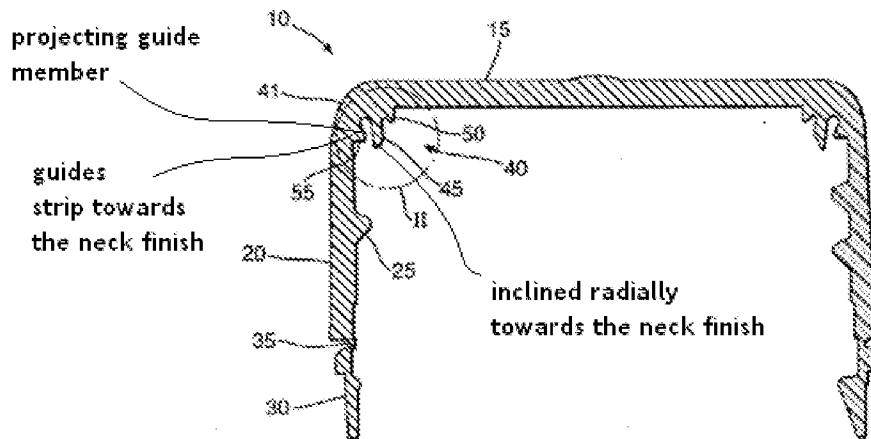
The above figure illustrates how there is no contact between what the Examiner labels the guide member (that is to say the lower corner portion of the abutment surface 44) and sealing flange 32. Thus there is no projecting guide member that contacts the sealing strip over a relatively small area.

Kano discloses a plastic container closure with a top panel wall 4 and an annular seal piece 34. The annular seal piece 34 appears to extend radially inwardly. This can be seen below:



While Kano may disclose a radially inward extending annular seal piece, there is no disclosure of an abutment member having a projecting guide member, or one that guides the annular seal piece. It is also noted that paragraph [0036] states that “the annular seal piece 34 is somewhat deflected radially outwardly to seal the mouth-and-neck portion 56.” Kano further fails to disclose having a guide member that contacts the sealing strip over a relatively small area.

The present invention has an abutment member with a projecting guide member that contacts the sealing strip during the application of the closure and inclines it radially towards the neck finish. This is shown below:



Claim 1 requires “an abutment member including a projecting guide member for guiding the sealing strip towards the neck finish as the closure is applied”, “the guide member contacts the sealing strip over a relatively small area” and “wherein the sealing strip is inclined radially towards the neck finish for improving the sealing effect.” Newly added claim 15 requires an “abutment member including a guide member projecting towards the sealing strip”, “wherein the guide member contacts the sealing strip over a relatively small area” and “wherein the sealing strip is inclined radially towards the neck finish for improving the sealing effect.”

As noted above, Dutt does not disclose an abutment member that includes a projecting guide member. The abutment surface according to Dutt is vertical and has no projection. Kano also does not disclose having an abutment member with a projecting guide member. For at least this reason, a *prima facie* case of obviousness has not been established for claim 1.

Furthermore, the abutment member of the present invention guides the sealing strip towards the neck finish, while the free end of the sealing flange according to Dutt is directed downwardly. Additionally, the sealing strip in Dutt is inclined outwardly as opposed to towards the neck finish. Kano is used to show a radially inward extending annular seal piece. However, Kano does not disclose that the radially inward extending annular seal is inclined radially towards the neck finish by an abutment surface or guide member. Indeed, as noted above Kano indicates that annular seal piece 34 is deflected radially outwardly to seal the mouth-and-neck portion. Therefore, neither Dutt nor Kano disclose having a sealing strip inclined radially towards the neck finish. For at least this reason, a *prima facie* case of obviousness has not been established for claim 1.

Additionally, Dutt does not disclose providing radial force resulting in contact between a guide member and the sealing strip. As shown above, the abutment surface in Dutt is vertical and has no projection. Furthermore, the portion pointed towards by the Examiner does not contact the sealing flange. Therefore, Dutt does not disclose a guide member that contacts the sealing strip over a relatively small area such that friction is minimized. Likewise, Kano does not remedy this deficiency. For at least this reason, a *prima facie* case of obviousness has not been established for claim 1.

For the above listed reasons, neither Dutt nor Kano disclose all of the claim limitations, either separately or in combination. Therefore, a *prima facie* case of obviousness has not been established for claim 1. Claims 2-6 and 8-13 are in condition for allowance by virtue of their dependence upon an allowable base claim. New claim 15 is also allowable due to the same issues, however claim 15 includes language that indicates that the guide member projects towards the sealing strip.

It is also noted that the abutment surface 44 of Dutt would not permit the sealing strip to move to a new sealing position when the top domes, since there is planar contact between the abutment surfaces and the sealing strip as can be seen in FIG. 3 of Dutt. Therefore, modifying the structure of Dutt with the annular seal piece of Kano would not be obvious since the goals outlined in Kano would not be accomplished.

## **2. Conclusion**

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, he or she is respectfully invited to telephone the undersigned at 215-599-0600. Contact with the undersigned via electronic mail at [takupstas@patentwise.com](mailto:takupstas@patentwise.com) is hereby authorized<sup>1</sup> per MPEP 502.03.

Respectfully submitted,

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<sup>1</sup> Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file.